

Petition for Writ of Mandamus Conditionally Granted in Part; Denied in Part; and Opinion filed April 8, 2021.



**In The
Fourteenth Court of Appeals**

NO. 14-21-00129-CV

IN RE CHARLES ROBBINS, Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS
165th District Court
Harris County, Texas
Trial Court Cause No. 2017-05523**

OPINION

On March 10, 2021, relator Charles Robbins filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In the petition, relator asks this Court to compel the Honorable Ursula A. Hall, presiding judge of the 165th District Court of Harris County, to: (1) direct

the trial court to rule on pending motion(s) to compel discovery and other discovery motions; (2) order the real party in interest, DDRG Physicians, PLLC, to appear for deposition; and (3) have a status conference to discuss a new scheduling order which will account for time lost and place case back on the docket. On March 11, 2021, the real party in interest were requested to file a response by March 22, 2021. No response has been filed.

Ordinarily, to be entitled to a writ of mandamus, the relator must show that the trial court abused its discretion and relator does not have an adequate remedy by appeal. *In re N. Cypress Med. Ctr. Operating Co.*, 559 S.W.3d 128, 130 (Tex. 2018) (orig. proceeding). When a motion is properly pending before a trial court, the act of considering and ruling on it is ministerial, and mandamus may issue to compel the trial court to act. *Eli Lilly & Co. v. Marshall*, 829 S.W.2d 157, 158 (Tex. 1992) (orig. proceeding) (per curiam). To establish that the trial court abused its discretion by failing to rule, the relator must show that the trial court: (1) had a legal duty to perform a nondiscretionary act; (2) was asked to perform the act; and (3) failed or refused to do so. *In re Harris County Appraisal Dist.*, No. 14-19-00078-CV, 2019 WL 1716274, at *2 (Tex. App.—Houston [14th Dist.] Apr. 18, 2019, no pet.) (mem. op.). The record reflects relator's motions were properly filed and have been pending a reasonable time, relator requested rulings on the motions, and the trial court has failed to rule. Accordingly, without addressing the merits of relator's motions, we conditionally grant the requested relief in part and direct the trial court to rule on the following motions within thirty days of the date of this opinion:

- Plaintiff's Motion to Compel Discovery;
- Plaintiff's Request for Oral Hearing and/or Ruling on Plaintiff's Motion to Compel Discovery; and
- Plaintiff's Motion to Compel Discovery on Plaintiff's Notice of Intention to Take Deposition by Written Questions.

The writ will issue only if the trial court fails to act in accordance with this opinion. All other requested relief is denied.

We take judicial notice that our court and the First Court of Appeals have repeatedly been petitioned for mandamus relief against the Honorable Ursula A. Hall for failure to rule. Of the twenty-one such petitions set forth below, eleven were granted and nine were dismissed as moot when the Honorable Ursula A. Hall ruled after the petition for writ of mandamus was filed. *See In re Advantage Cars.com*, No. 01-20-00863-CV, 2021 WL 1217326, at *1 (Tex. App.—Houston [1st Dist.] Apr. 1, 2021, orig. proceeding) (per curiam) (mem. op.); *In re Estate of Burnett*, No. 14-20-00757-CV, 2020 WL 6878564, at *1 (Tex. App.—Houston [14th Dist.] Nov. 24, 2020, orig. proceeding) (per curiam) (mem. op.); *In re First Am. Title Ins. Co.*, No. 14-20-00563-CV, 2020 WL 5186622, at *1 (Tex. App.—Houston [14th Dist.] Sept. 1, 2020, orig. proceeding) (per curiam) (mem. op.); *In re Nomarco, Inc.*, No. 14-20-00129-CV, 2020 WL 1181705, at *1 (Tex. App.—Houston [14th Dist.] Mar. 12, 2020, orig. proceeding) (per curiam) (mem. op.); *In re SMS Fin. XV, L.L.C.*, No. 01-19-00850-CV, 2020 WL 573247, at *2 (Tex. App.—Houston [1st Dist.] Feb. 6, 2020, orig. proceeding) (per curiam) (mem. op.); *In re Maltz*, No. 01-19-00749-CV, 2019 WL 5792193, at *1 (Tex. App.—Houston

[1st Dist.] Nov. 7, 2019, orig. proceeding) (per curiam) (mem. op.); *In re City of Houston*, No. 01-19-00700-CV, 2019 WL 4677367, at *1 (Tex. App.—Houston [1st Dist.] Sept. 26, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Elizon Master Participate Tr. I*, No. 14-19-00593-CV, 2019 WL 3727364, at *1 (Tex. App.—Houston [14th Dist.] Aug. 8, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Tomball Tex. Hosp. Co., LLC*, No. 01-19-00242-CV, 2019 WL 3418569, at *5 (Tex. App.—Houston [1st Dist.] July 30, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Baylor Coll. of Med.*, No. 01-19-00105-CV, 2019 WL 3418504, at *4 (Tex. App.—Houston [1st Dist.] July 30, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Univ. of Tex. MD Anderson Cancer Ctr.*, No. 01-19-00201-CV, 2019 WL 3418567, at *3 (Tex. App.—Houston [1st Dist.] July 30, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Univ. of Tex. MD Anderson Cancer Ctr.*, No. 01-19-00202-CV, 2019 WL 3418568, at *4 (Tex. App.—Houston [1st Dist.] July 30, 2019, orig. proceeding) (per curiam) (mem. op.); *In re ABC Assembly LLC*, No. 14-19-00419-CV, 2019 WL 2517865 (Tex. App.—Houston [14th Dist.] June 18, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Harris County Appraisal Dist.*, No. 14-19-00078-CV, 2019 WL 1716274, at *1 (Tex. App.—Houston [14th Dist.] Apr. 18, 2019, orig. proceeding) (per curiam) (mem. op.); *In re Underwriters at Lloyds of London*, No. 01-18-00760-CV, 2018 WL 6318509, at *1 (Tex. App.—Houston [1st Dist.] Dec. 4, 2018, orig. proceeding) (per curiam) (mem. op.); *In re Coffey*, No. 14-18-00124-CV, 2018 WL 1627592, at *2 (Tex. App.—Houston [14th Dist.] Apr. 5, 2018, orig. proceeding) (per curiam) (mem. op.); *In re Socie*, No. 01-18-00414-CV, 2018 WL 3625443, at *1 (Tex. App.—Houston [1st Dist.] July 31, 2018, orig.

proceeding) (per curiam) (mem. op.); *In re Underwriters at Lloyds of London*, No. 01-18-00196-CV, 2018 WL 1597480, at *1 (Tex. App.—Houston [1st Dist.] Apr. 3, 2018, orig. proceeding) (per curiam) (mem. op.); *In re Fiesta Mart, L.L.C.*, No. 14-18-00180-CV, 2018 WL 1476261, at *1 (Tex. App.—Houston [14th Dist.] Mar. 27, 2018, orig. proceeding) (per curiam) (mem. op.); *In re PDVSA Services, Inc.*, No. 14-17-00824-CV, 2017 WL 6459227, at *1 (Tex. App.—Houston [14th Dist.] Dec. 19, 2017, orig. proceeding) (per curiam) (mem. op.).

This is the twelfth grant of relief against the Honorable Ursula A. Hall for failure to rule.

PER CURIAM

Panel consists of Chief Justice Christopher and Justices Spain and Wilson.